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**SUMMARY OF JUNE 10, 2015 BIDDER'S CONFERENCE**

for

**REQUEST FOR PROPOSALS FOR THE PUBLICATION OF THE CALIFORNIA CODE OF
REGULATIONS AND CALIFORNIA REGULATORY NOTICE REGISTER**

On June 10, 2015, the Office of Administrative Law (OAL) held an optional bidder's conference regarding the publication contract for the Official California Code of Regulations and California Regulatory Notice Register. The conference was attended by the following persons:

Name	Agency/Company
William A. McKay	Thompson Reuters
Katie Solomon	Lexis Nexis
Craig Tarpenning	OAL
Kevin D. Hull	OAL
Lindsey McNeill	OAL
Melvin Fong	OAL

The agenda for the bidder's conference set forth the following discussion items:

1. Introductions and Welcome
2. Brief History of OAL and Publication of the CCR
3. Proposal Submission Requirements
4. Key Action Dates
5. Anticipated Addenda and Changes to RFP
6. Question and Answer
7. Adjournment

The bidder's conference commenced at 1:30 p.m.

OAL staff reviewed items 1 through 4 on the agenda.

For agenda item 5, OAL explained that OAL will issue an addenda to the original RFP within the next week or so. OAL further explained that given the nature of the anticipated changes, which are not intended to materially modify any of the proposal requirements, but instead are primarily clarifying revisions, OAL does not believe the extension of the July 30, 2015 proposal submission deadline is necessary.

During agenda item 6, the following questions were responded to by OAL staff.

QUESTION 1, THOMPSON REUTERS: 2.4, Proposal Submission Requirements, Volume 2: Compensation Offer Form (page 7)—The RFP provides that the Volume Two: Compensation Offer must be packaged and sealed separately from Volume One: Response to Minimum Qualifications. It is this vendor's experience that shipping bid responses in multiple packages greatly increases the risk of lost, misplaced, or misdelivered packages. As such, would it be acceptable to OAL if the Volume Two: Compensation Offer Form be packaged and sealed in a separate box that would then be inserted into a larger box that contained the Volume One and Two volumes (e.g., sealed box inside a sealed box). This would then ensure that each vendor's response is contained in a single package for shipping efficiency, but would still maintain the integrity of the separate, sealed Compensation Form. Please clarify.

RESPONSE TO QUESTION 1: *Yes, it is acceptable to put both the Volume 1 and Volume 2 sealed envelopes in the same box for shipping purposes. Each envelope must be separately sealed within the actual shipping box to avoid inadvertent opening inconsistent with the procedures set forth in the RFP.*

QUESTION 2, THOMPSON REUTERS: 2.4, Proposal Submission Requirements (page 7)—The RFP indicates that proposals containing modifications or alternatives to provisions will be rejected as "non-responsive." If a proposal is deemed deficient, will the proposer be given an opportunity to address the perceived deficiencies with the evaluation committee prior to the evaluators making the final recommendation?

RESPONSE TO QUESTION 2: *Mandatory provisions requiring specific acts or services are not negotiable as are the terms of the proposed contract; however, a proposer is permitted to offer services in addition to the minimum requirements set forth in the RFP.*

If a proposal is deemed deficient, OAL will evaluate the deficiency and may seek guidance from DGS Legal on whether the proposer may address the deficiency, and if so, how.

QUESTION 3, THOMPSON REUTERS, 2.8.1, Evaluation Committee (page 8): The RFP indicates that the Evaluation Committee may seek advice of outside private counsel and/or counsel employed by other state agencies to aid in their determination of a worthy contractor for the next publishing cycle. Has the OAL employed the services of "outside counsel and/or counsel employed by other state agencies" in previous RFPs for the purposes of aiding its Evaluation Committee?

RESPONSE TO QUESTION 3: *In connection with the CCR Publication Contract, OAL has consulted with copyright counsel; however, current staff is not aware of any instances where OAL consulted with outside counsel in connection with the evaluation process itself. If needed, OAL may consult with outside counsel regarding issues that may come up during the evaluation process, however, even if such services are sought, the outside counsel would not have access to the proposals submitted - only the evaluation committee will have access to any proposals. For the current RFP, OAL does not anticipate using outside counsel to evaluate proposals, and even if used, only OAL staff will serve on the evaluation committee.*

QUESTION 4, THOMPSON REUTERS: In what scenario(s) would the OAL choose to employ the use of “confidential advice of outside private counsel and/or counsel employed by other state agencies?” Can the OAL clarify the role they would play in this RFP process?

RESPONSE TO QUESTION 4: *OAL is not aware of a specific scenario where outside counsel (private or state) would be employed to aide in the RFP process. OAL has consulted with DGS Legal in connection with the content of the RFP and may consult with DGS Legal further to ensure compliance with California public contracting processes. While OAL does not currently anticipate the need to consult with outside counsel (private or within the state) in connection with this RFP, OAL reserves the right to do so if necessary.*

QUESTION 5, THOMPSON REUTERS: In the event of the OAL seeking confidential advice outside of the Evaluation Committee during this RFP process, will the bidders be informed that the OAL has chosen to seek assistance here?

RESPONSE TO QUESTION 5: *If outside legal advice is sought, whether OAL discloses this information will depend on whether disclosure is required or permitted under California law.*

QUESTION 6, THOMPSON REUTERS: 4.2.1, Financial Capability (page 28)—The Financial Capability section references the Proposed Standard Agreement, Exhibit D (“Special Terms and Conditions”), but Exhibit D was not attached with the solicitation materials and there does not appear to be a file posted on the OAL website. Could the OAL please provide a copy of Exhibit D?

RESPONSE TO QUESTION 6: *This document was inadvertently omitted from the initial RFP and will be included along with Addendum No. 1, which OAL intends to issue in the near future. The document is also being made available on OAL’s website.*

QUESTION 7, THOMPSON REUTERS: 4.4, Implementation, Performance and Transition Plan— The OAL requests that a proposer “set forth a list of any problems anticipated” and provide a “proposed solution for each problem identified.” As it conceivably can be difficult to fully anticipate all potential problems in the future, it raises a couple of issues:

- As a result of this provision, what is being assessed by the Evaluation Committee? Examining proposers' problems and solutions could result in an apples to oranges comparison. Please advise.
- Is a list of problems/solutions submitted to satisfy Section 4.4. judged solely within the confines of its bidder's submission proposal document or is it compared against another bidder's list of problems/solutions? Is the list of Bidder A evaluated and scored alone or is it evaluated and scored against Bidder B or Bidder C or against all submitted proposals in tallying a score for Bidder A?

RESPONSE TO QUESTION 7: *After reviewing this provision, OAL anticipates removing it in an addendum to the RFP.*

QUESTION 8, LEXIS NEXIS: Section 3.2.2 Processing of Regulatory Actions for Publication: May we obtain samples of Agency submissions for proposed regulatory actions and approved regulatory actions sent to the Publisher?

RESPONSE TO QUESTION 8: *Yes. Additional examples of notices of proposed action and final regulatory submissions are available. Two examples of notices of proposed action were provided to attendees and are being made available on OAL's website. Examples of final regulatory submissions endorsed by the Secretary of State are provided on OAL's website in connection with the RFP.*

QUESTION 8.1, LEXIS NEXIS: Are these documents available electronically?

RESPONSE TO QUESTION 8.1: *Portions of the Notice Register are provided to the current publisher electronically (such as Notice of Proposed Actions and the table of contents) in either PDF or word format; however, the complete Friday draft of the Notice Register is sent in hard-copy form the Friday one week before publication.*

QUESTION 8.2, LEXIS NEXIS: Rather than using overnight delivery of hard copies, would the OAL be open to implementing an electronic workflow?

RESPONSE TO QUESTION 8.2: *OAL is open to the idea of implementing an electronic workflow at some point in the future; however, OAL's current resources and staffing do not allow for a purely electronic workflow at this time.*

QUESTION 9, LEXIS NEXIS: Section 3.2.4 CCR Master Database: In what format does the current publisher maintain the CCR Master Database?

RESPONSE TO QUESTION 9: *OAL is unaware of the specific format the current publisher maintains the CCR Master Database. The RFP and current contract set out the parameters and requirements for the Master*

Database but do not require that it be maintained in any specific format. The current contract and any future contract require cooperation between the current publisher and any subsequent publisher and that the Master Database be provided in a functional format. (see RFP Sections 4.4, 3.2.4)

QUESTION 10, LEXIS NEXIS: Section 3.2.5 Publication Specifications for the Official CCR: Does the OAL have rights to additional value adds such as annotations, appropriate research references and /or other editorial material created by the current contractor so that a new contractor would be able to utilize them.

RESPONSE TO QUESTION 10: *It is OAL's understanding that the current publisher owns the rights to any such value adds and/or enhancements. Any such rights are governed by Section 18 of the current CCR Contract.*

QUESTION 11, LEXIS NEXIS: Section 3.2.8 Master Index: Does the OAL own the copyright in the current Master Index? Will the successful bidder be able to receive and utilize the current, existing index?

RESPONSE TO QUESTION 11: *It is OAL's understanding that the current publisher owns the copyright in the Master Index and that the current contract may not require the current publisher to transfer the Master Index to any subsequent publisher. (See RFP Section 3.2.8; 2010 CCR Contract Section 4)*

QUESTION 12, LEXIS NEXIS: Section 3.2.10 Subscription Information: What publications comprise the Official CCR contract publications?

RESPONSE TO QUESTION 12: *It is OAL's current understanding that at least the Official CCR, CCR Supplement, Notice Register and all permutations and formats of these documents are part of the Official CCR publications. Government Code Section 11344 requires publication of Official CCR, Internet CCR and CCR Supplement. Government Code section 11344.1 requires publication of the Notice Register.*

QUESTION 13, LEXIS NEXIS: Please provide number of subscriptions for all of the Official CCR publications, including but not limited to:

- CCR print (full set w/supplements, individual titles (by title)
- CD-ROM/DVD version of CCR
- Master Table of Contents
- Master Index
- Notice Register
- Any and all segments and compilations of the CCR currently published

RESPONSE TO QUESTION 13: *OAL does not have this information. (See CCR Contract Section 28.)*

QUESTION 14, LEXIS NEXIS: What publication revenue streams are included in the 7% royalty calculation? Please provide a breakdown of the total royalty amount between print, online, and licensing.

RESPONSE TO QUESTION 14: *See handout for breakdown of print and online royalties received. This document is also being made available on OAL's website.*

QUESTION 15, LEXIS NEXIS: Does the revenue for the royalty calculation include revenue from the "permutations and compilations" that the current publisher offers in its sole discretion.

RESPONSE TO QUESTION 15: *If they are permutations of the Official CCR documents then it is OAL's understanding that they are subject to the royalty.*

QUESTION 16, LEXIS NEXIS: Will subscription lists from the above mentioned "permutations and compilations" be made available to a successor publisher?

RESPONSE TO QUESTION 16: *Yes. That is OAL's understanding based on the language in the current contract. Please see Contract sections 21.3 and 28. See Also RFP section 3.2.10.*

QUESTION 17, LEXIS NEXIS: Publications and Services for OAL. Are the 1000 copies of the *California Rulemaking Law under the Administrative Procedure Act* shipped to a single address or are there multiple delivery addresses?

RESPONSE TO QUESTION 17: *All 1,000 copies of the California Rulemaking Law under the Administrative Procedure Act are delivered to OAL at 300 Capitol Mall, Suite 1250.*

QUESTION 18, LEXIS NEXIS: Please describe the free access to online legal research databases that the OAL currently receives – e.g. number of User IDs, content (CA, specific, national, primary, secondary etc)

RESPONSE TO QUESTION 18: *OAL receives access to "WestLaw", including "WestLaw Next" for each of its attorneys and legal staff. Currently, there are about 16 OAL employees with subscriptions. The level of service provides access to California and national databases including a number of secondary sources.*

QUESTION 19, LEXIS NEXIS: Publications for County Clerks and Depository Libraries: Are these complimentary subscriptions currently all hard copy? If not, please provide a breakdown of the number and type of other media subscriptions

RESPONSE TO QUESTION 19: *OAL does not have specifics on these subscriptions, however, it is OAL's understanding that some Libraries and/or depositories prefer receiving the CCR in electronic form such as CD ROM as opposed to hard copy due to space limitations. The CCR Contract provides flexibility to allow individual libraries / depositories to choose to receive the agreed upon publications by these alternative means.*

QUESTION 20, LEXIS NEXIS: Where is the CCR and CCR Supplement currently printed?

RESPONSE TO QUESTION NO. 20: *It is OAL's understanding that the CCR and CCR Supplement are currently printed in Eagan, Minnesota.*

QUESTION 21, LEXIS NEXIS: What is the head count of the current contractor's CCR Editorial staff?

RESPONSE TO QUESTION NO. 21: *OAL does not have this information. Although the RFP and Contract require OAL to be informed of all key editorial personnel, identification of all editorial staff is not required.*

QUESTION 22, THOMPSON REUTERS: Bill McKay inquired as to why OAL is anticipating removing the "Exceptional" interpretation from the RFP Scoring Methodology in RFP Section 2.8.6.

RESPONSE TO QUESTION 22: *While reserving all rights and privileges, it was explained that this language was removed at the recommendation of DGS Legal.*

The meeting was adjourned at 2:15 after confirming that there were no other questions from any of the attendees.